



House of Representatives

General Assembly

File No. 45

January Session, 2021

Substitute House Bill No. 6462

House of Representatives, March 11, 2021

The Committee on Judiciary reported through REP. STAFSTROM of the 129th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING USE OF FORCE BY A PEACE OFFICER.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (*Effective March 31, 2021*) Section 29 of public act 20-1 of the
2 July special session shall take effect January 1, 2022.

3 Sec. 2. Subsection (c) of section 53a-22 of the general statutes, as
4 amended by section 29 of public act 20-1 of the July special session, is
5 repealed and the following is substituted in lieu thereof (*Effective January*
6 *1, 2022*):

7 (c) (1) Except as provided in subsection (d) of this section, a peace
8 officer, special policeman appointed under section 29-18b or authorized
9 official of the Department of Correction or the Board of Pardons and
10 Paroles is justified in using deadly physical force upon another person
11 for the purposes specified in subsection (b) of this section only when his
12 or her actions are objectively reasonable under the given circumstances
13 at that time, and:

14 (A) He or she reasonably believes such use to be necessary to defend
15 himself or herself or a third person from the use or imminent use of
16 deadly physical force; or

17 (B) He or she (i) has [exhausted the] reasonably determined that there
18 are no available reasonable alternatives to the use of deadly physical
19 force, (ii) reasonably believes that the force employed creates no
20 [substantial] unreasonable risk of injury to a third party, and (iii)
21 reasonably believes such use of force to be necessary to (I) effect an
22 arrest of a person whom he or she reasonably believes has committed or
23 attempted to commit a felony which involved the infliction of serious
24 physical injury, and if, where feasible, he or she has given warning of
25 his or her intent to use deadly physical force, or (II) prevent the escape
26 from custody of a person whom he or she reasonably believes has
27 committed a felony which involved the infliction of serious physical
28 injury and who poses a significant threat of death or serious physical
29 injury to others, and if, where feasible, [under this subdivision,] he or
30 she has given warning of his or her intent to use deadly physical force.

31 (2) For purposes of evaluating whether actions of a peace officer,
32 special policeman appointed under section 29-18b or authorized official
33 of the Department of Correction or the Board of Pardons and Paroles are
34 reasonable under subdivision (1) of this subsection, factors to be
35 considered include, but are not limited to, whether (A) the person upon
36 whom deadly physical force was used possessed or appeared to possess
37 a deadly weapon, (B) the peace officer, special policeman appointed
38 under section 29-18b or authorized official of the Department of
39 Correction or the Board of Pardons and Paroles engaged in reasonable
40 deescalation measures prior to using deadly physical force, and (C) any
41 unreasonable conduct of the peace officer, special policeman appointed
42 under section 29-18b or authorized official of the Department of
43 Correction or the Board of Pardons and Paroles led to an increased risk
44 of an occurrence of the situation that precipitated the use of such force.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>March 31, 2021</i>	New section
Sec. 2	<i>January 1, 2022</i>	53a-22(c)

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill makes changes to the use of force definitions and delays implementation of certain provisions of PA 20-1 JSS and does not result in a fiscal impact.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**sHB 6462*****AN ACT CONCERNING USE OF FORCE BY A PEACE OFFICER.*****SUMMARY**

This bill delays the effective date of 2020 legislative changes affecting law enforcement use of force (§ 29 of PA 20-1, July Special Session (JSS)) from April 1, 2021, to January 1, 2022. Among other things, these provisions (1) limit the circumstances under which a law enforcement officer's use of deadly physical force is justified and establish factors to consider when evaluating whether the officer's action was reasonable and (2) limit when officers may use chokeholds or similar restraints (see BACKGROUND).

The bill also modifies the circumstances in which officers are justified in using deadly physical force, established in PA 20-1, JSS (§ 29), by, among other things, (1) basing the objective reasonableness standard on the officer's given circumstances at that time; (2) requiring officers to have reasonably determined that no reasonable alternatives exist, rather than having exhausted such alternatives, if using deadly force when making an arrest or preventing escape; and (3) establishing the condition that the escaping person poses a significant threat of death or serious physical injury to others, among other requirements.

The bill also makes a technical and conforming change.

EFFECTIVE DATE: March 31, 2021, for the effective date provision and January 1, 2022, for the provision modifying the use of deadly force justification.

USE OF DEADLY PHYSICAL FORCE***Objectively Reasonable***

Under PA 20-1, JSS (§ 29), one condition that justifies officers using

deadly physical force is that the officers' actions are objectively reasonable under the circumstances. The bill specifies that the actions must be objectively reasonable given the circumstances at that time.

PA 20-1, JSS (§ 29), allows officers to use deadly physical force to:

1. defend themselves or a third person from the use or imminent use of deadly physical force or
2. (a) arrest a person they reasonably believe has committed or attempted to commit a felony that involved the infliction of serious physical injury or (b) prevent the escape from custody of a person they reasonably believe has committed a felony that involved the infliction of serious physical injury.

As under existing law, officers must reasonably believe the use of force is necessary.

Making an Arrest or Preventing Escape

In situations where an officer is making an arrest or preventing an escape, PA 20-1, JSS (§ 29), places additional conditions on when deadly physical force may be used. The bill modifies these conditions as follows.

It eliminates the requirement for officers to exhaust reasonable alternatives to the use of deadly force; instead, it requires that they reasonably determine that there are no available reasonable alternatives to using deadly force. Additionally, the bill requires that they reasonably believe the force they used does not create unreasonable, rather than substantial, risk to a third party.

Unchanged by the bill, PA 20-1, JSS (§ 29), also eliminates the justification of using deadly physical force on someone the officer reasonably believes only threatened the infliction of serious physical injury, both when making an arrest or preventing an escape.

Preventing Escape. In situations where an officer is preventing an escape, the bill additionally establishes the condition that, to justify an

officer's use of deadly force, the escaping person must pose a significant threat of death or serious physical injury to others.

DETERMINING WHETHER DEADLY FORCE WAS REASONABLE

PA 20-1, JSS (§ 29), establishes factors for evaluating whether an officer's use of deadly physical force was objectively reasonable. These factors include, among others, whether the officer's conduct led to an increased risk of the situation that preceded the use of force. The bill narrows this factor to whether the officer's unreasonable conduct led to such an increased risk.

BACKGROUND

Law Enforcement Officers

For purposes of the bill, a law enforcement officer includes peace officers (see below), special police officers for the Department of Revenue Services, and authorized officials of the Department of Correction (DOC) or the Board of Pardons and Paroles. By law, the following individuals are designated peace officers: state and local police, Division of Criminal Justice inspectors, state marshals exercising statutory powers, judicial marshals performing their duties, conservation or special conservation officers, constables who perform criminal law enforcement duties, appointed special policemen, adult probation officers, DOC officials authorized to make arrests in a correctional institution or facility, investigators in the Office of the State Treasurer, POST-certified motor vehicle inspectors, U.S. marshals and deputy marshals, U.S. special agents authorized to enforce federal food and drug laws, and certified police officers of a law enforcement unit created and governed under a state-tribal memorandum (CGS § 53a-3(9)).

Limits on Chokeholds or Similar Restraints

By law, law enforcement officers are justified in using physical force to the extent they reasonably believe it is necessary to:

1. arrest or prevent the escape from custody of someone they reasonably believe has committed an offense (unless the officers

know that the arrest or custody is unauthorized) or

2. defend themselves or a third person from the use or imminent use of physical force while arresting or attempting to arrest someone or preventing or attempting to prevent an escape.

PA 20-1, JSS (§ 29), limits when an officer may use a chokehold or similar methods of restraint (i.e., those that are applied to the neck area, impede the ability to breathe, or restrict blood circulation to the brain). It does so by allowing these methods only when the officer reasonably believes they are necessary to defend himself or herself from the use or imminent use of deadly physical force.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 0 (03/08/2021)